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## Should BP Face Criminal Liability for the Gulf of Mexico Oil Spill? (/full-blog/2011/10/should-bp-face-criminal-liability-for.html)



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By: Neal Manor, Staff Member

On the first anniversary of the permanent sealing of the Macondo Prospect well in the Gulf of Mexico, more questions than answers remain concerning BP's criminal liability for the damage its 206 million gallon oil spill caused. Last week, the Bureau of Ocean Energy Management, Regulation, and Enforcement (BOEMRE) published a report[1] examining the explosion on the *Deepwater Horizon* rig that killed 11 people and led to the largest unintentional oil spill in history.[2]

A BOEMRE panel of investigators concluded that BP and its contractors Halliburton and Transocean violated seven federal regulations.[3] Among these violations were a failure to protect health, safety, property, and the environment, failure to take necessary precautions to keep the well under control at all times, and failure to conduct inspections of major rig components.

Louisiana's wetlands, thought by many to be damaged irrevocably by the spill, seem poised for a dramatic recovery. Ed Overton, a professor emeritus at Louisiana State University's Department of Environmental Sciences, collected water samples from an affected area and saw "remarkably normal" results.[4] His research on the condition of the wetlands has shown no sheen on the water from the spill, marshes teeming with new growth, and a relatively healthy fish population. [5] There is an emerging consensus that the spill's ecological effects could have been worse.[6]

BP, Halliburton, and Transocean, the three corporations principally responsible for operating the *Deepwater Horizon* rig, might not be so fortunate. Two months after the explosion, with oil still inundating the Gulf of Mexico, President Obama confirmed that a criminal investigation had been launched and that "[i]f our laws were broken...we will bring those responsible to justice...."[7] Some experts believe that the criminal investigation by the Department of Justice will result in indictments and historic criminal fines for BP and its contractors, who were deemed directly responsible for the spill by the BOEMRE panel of investigators.[8] A civil suit has already been filed and will not likely impact whether criminal charges are ultimately pursued.[9]

The averted environmental apocalypse should not preclude the Department of Justice from issuing criminal charges against those responsible for the largest unintentional oil spill in history. With the moratorium on deep-water drilling imposed by President Obama after the spill now lifted, substantial disaster prevention methods other than new rules and regulations are necessary. Criminal prosecution of BP, Halliburton, and Transocean will serve retributive purposes in a way that civil penalties simply cannot. Most importantly, the potential punishment these three corporations receive would deter other major corporations involved in similar offshore drilling operations from taking economic shortcuts and putting the bottom line before safety.

[1] Bureau of Ocean Energy Management, Regulation, and Enforcement, Report Regarding the Causes of the April 20, 2010 Macondo Well Blowout, Volume II (2011), *available at* <http://www.boemre.gov/ooc/press/2011/press0914.htm>.

[2] Joel Achenbach and David A. Fahrenthold, *Oil Spill Dumped 4.9 Million Barrels into Gulf of Mexico, Latest Measure Shows*, The Washington Post (Aug. 3, 2010), <http://www.washingtonpost.com/wp-dyn/content/article/2010/08/02/AR2010080204695.html> (<http://www.washingtonpost.com/wp-dyn/content/article/2010/08/02/AR2010080204695.html>).

[3] See 30 C.F.R. § 250.107; 30 C.F.R. § 250.300; 30 C.F.R. § 250.401; 30 C.F.R. § 250.420(a) (1) ; 30 C.F.R. § 250.427(a); 30 C.F.R. § 250.446(a); 30 C.F.R. § 250.1721(a).

[4] Neal Conan, *Checking in on Gulf on Heels of BP Spill Report*, National Public Radio (Sept. 15, 2011), <http://www.npr.org/2011/09/15/140508713/checking-in-on-gulf-on-heels-of-bp-spill-report> (<http://www.npr.org/2011/09/15/140508713/checking-in-on-gulf-on-heels-of-bp-spill-report>).

[5] *Id.*

[6] Bryan Walsh, *The BP Oil Spill, One Year Later: How Healthy is the Gulf Now?* Time Science (Apr. 19, 2011), <http://www.time.com/time/health/article/0,8599,2066031,00.html> (<http://www.time.com/time/health/article/0,8599,2066031,00.html>).

[7] Brian Montopoli, *Obama Vows “Justice” for Oil Spill Crimes*, CBS News (June 1, 2010),[http://www.cbsnews.com/8301-503544\\_162-20006435-503544.html](http://www.cbsnews.com/8301-503544_162-20006435-503544.html) ([http://www.cbsnews.com/8301-503544\\_162-20006435-503544.html](http://www.cbsnews.com/8301-503544_162-20006435-503544.html)).

[8] David M. Uhlmann, *After the Spill is Gone: The Gulf of Mexico, Environmental Crime, and the Criminal Law*, 109 Mich. L. Rev. 1413 (2011).

[9] *Id.* at 1435.

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